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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,554	09/22/2003	Larry K. Wagner	281.036	9989
23598	7590	09/26/2005	EXAMINER	
BOYLE FREDRICKSON NEWHOLM STEIN & GRATZ, S.C. 250 E. WISCONSIN AVENUE SUITE 1030 MILWAUKEE, WI 53202			KEENAN, JAMES W	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 09/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/667,554	WAGNER, LARRY K.	
	<b>Examiner</b>	<b>Art Unit</b>	
	James Keenan	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-17 is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____  | 6) <input type="checkbox"/> Other: ____                                     |

*HC*

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, it is not clear what is meant by the clamp tube having an "interfering position" and a "non-interfering position", in that it is not specified with what the clamp tube interferes:

In claim 6, line 2, "axial" should be --axially--.

The scope of claims 7-13 is unclear because in claim 7 the preamble recites a "latch assembly for ... a trailer", and the trailer is thereafter referred to inferentially, indicating the apparent limiting of the claim to the subcombination latch assembly. However, claim 8 includes a positive recitation of the trailer ("a mounting element rigidly connected to the trailer") which seems to indicate that the combination of the trailer with the latch assembly is within the scope of the claims. The claims will be examined under the assumption that only the subcombination is positively claimed.

In claim 13, line 2, "connect" should be --connected--.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Carson (US 3,877,624).

Carson shows a latch assembly which could be used for performing the functionally claimed recitation of latching a ramp of a trailer, comprising mounting tube 12, clamp tube 82, and link arm 36 (includes elements 38, 48, etc.) for connecting the clamp tube to the mounting tube, wherein the clamp tube moves between "interfering" and "non-interfering" positions, as broadly claimed.

Re claim 2, the link arm has an interfering portion 72 and moves between latching and non-latching positions.

Re claim 3, stop member 22' is considered to be a "locking device connectable to the link arm" (at least indirectly), as broadly claimed.

Re claim 4, portion 72 has a beveled edge.

Re claim 5, portion 72 can also be considered a handle.

Re claim 6, the connection arm can simply be considered the other slide frame 38, as shown in figures 2 and 4.

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5. Claims 7-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Whitmarsh et al (US 6,802,095).

Whitmarsh shows a latch assembly for a ramp movable between storage and extended positions on a vehicle which could be a trailer, comprising movable handle 88, leading link arm 92, trailing link arm 84 having interfering portion 86, wherein the handle is movable between interfering (fig. 6a) and non-interfering (fig. 6c) positions.

Re claim 8, note mounting element 20.

Re claim 9, locking device 122 (fig. 10) is at least indirectly "connectable" to the trailing link arm, as broadly claimed.

JK 9/20/05 Re claim <sup>10</sup>~~10~~, the portion 86 is considered to be "beveled", as broadly claimed.

Re claim 11, shaft 110 is considered to be a "grasping member" to facilitate movement between the interfering and non-interfering positions, as broadly claimed.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Whitmarsh et al.

Whitmarsh does not show the movable handle to be an elongated tube of rectangular cross-section.

Nevertheless, it would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Whitmarsh such that the handle comprised such a tube rather than a solid plate, as this would simply be a design expediency which would require no undue experimentation and produce no unexpected results, and the invention would work equally well with either structure.

8. Claim 13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. Claims 14-17 are allowed.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is 571-272-6925. The examiner can normally be reached on (schedule varies).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eillen Lillis can be reached on 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "James Keenan".

James Keenan  
Primary Examiner  
Art Unit 3652

jwk  
9/20/05